

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10424 of 2007

17.7.2007

Between:

Kolapalli Venkateswara Rao, S/o.Lakshmipathi

... Petitioner

AND

The District Collector, Krishna District, Machilipatnam

And others.

... Respondents

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ORDER:

The petitioner became successful highest bidder in an auction conducted to lease out Ferry known as Iluru Ferry. He was required to pay Rs.1,55,000/- for a period of 12 months, during 2000-2001. He alleges that on 01.2.2001 the boat, which he was using, was burnt in a fire accident and therefore he could not run at the ferry point during the entire lease period. The petitioner also informed the same to fourth respondent, in vain. Action was initiated under Andhra Pradesh Revenue Recovery Act, 1864 (the Act, for brevity) and petitioner was issued notice of attachment dated 17.8.2006. Aggrieved by the same, the present writ petition is filed.

The Mandal Revenue Officer, Thotlavalluru Mandal – second respondent herein; and the Mandal Parishad Development Officer – fourth respondent herein; filed separate counter affidavits. In his counter affidavit, second respondent made the following averments. The petitioner was given leasehold rights from Iluru Ferry point for a period from 31.3.2000 to 01.4.2001. He remitted Rs.65,000/-. The Vigilance and Enforcement Department conducted enquiry and advised to recover balance amount of Rs.90,000/- from the petitioner. In pursuance thereof, the District Collector gave instructions to the second respondent to take steps under the provisions of the Act for recovery of the remaining amount from the petitioner. A demand notice bearing No.Rc.B.235/2006, dated 17.8.2006 was issued directing the petitioner to pay the amount of Rs.90,000/- towards bid amount to Iluru Ferry, to the Chief Executive Officer, Zilla Parishad, Krishna, Machilipatnam. The demand notice was served on the petitioner on 17.8.2006, and another notice was affixed in the land of the petitioner in R.S.No.142. The petitioner did not pay the amount and filed the present writ petition. A copy of the demand notice is also annexed to the counter affidavit. In the counter affidavit filed by the fourth respondent, it is averred that after taking the ferry point on lease, on

30.3.2000, petitioner successfully operated till February 2001 but failed to pay the agreed lease amount and, therefore, necessary action was initiated. It is also further stated that the lease period expired on 31.3.2001 and, therefore, fresh lease was granted for the year 2001-2002 on 01.4.2001. The petitioner, therefore, is under obligation to pay the balance amount of Rs.90,000/- after adjusting Rs.65,000/- paid towards initial deposit.

The petitioner has not filed any reply affidavit denying the averments made in the counter affidavits filed by respondents 2 and 4. This only shows that appropriate necessary action was taken against the petitioner. Therefore, this Court is not able to countenance the submission of the learned Counsel for petitioner that a demand notice as required, is not issued. Along with the counter affidavit filed by second respondent, copy of the demand notice dated 17.8.2006 is annexed, which would show that it was duly served on the petitioner and the petitioner did not take any steps to deny the same by filing reply affidavit. Secondly, a categorical averment is made in the counter affidavit of fourth respondent that the petitioner had successfully run the ferry point till February 2001. Therefore, the respondents are justified in taking steps to recover the balance lease amount of Rs.90,000/- from the petitioner. The action cannot be treated as illegal and invalid.

The writ petition is devoid of any merits and is accordingly dismissed with costs.

July 17, 2007
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(V.V.S.RAO, J)